

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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JOSE RIVERA,

Defendant-Petitioner,  
v.

13-CR-83-WMS

UNITED STATES OF AMERICA,

Respondent.

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**MOTION FOR AN EXTENSION OF TIME TO FILE A RESPONSE TO THE  
DEFENDANT-PETITIONER'S MOTION PURSUANT TO TITLE 28, UNITED  
STATES CODE, SECTION 2255**

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Brendan T. Cullinane, Assistant United States Attorney, the undersigned hereby moves this Court for an extension of time to file a response to the defendant-petitioner's motion pursuant to Title 28, United States Code, Section 2255. See Doc. No. 681.

DATED: Buffalo, New York, August 17, 2020.

JAMES P. KENNEDY, JR.  
United States Attorney

BY: s/BRENDAN T. CULLINANE  
Assistant United States Attorney  
United States Attorney's Office  
Western District of New York  
138 Delaware Avenue  
Buffalo, New York 14202  
716-843-5875  
Brendan.Cullinane@usdoj.gov

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**AFFIDAVIT**

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS:  
CITY OF BUFFALO )

**BRENDAN T. CULLINANE**, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and I am assigned responsibility for the above-referenced case. This affidavit is submitted in support of the government's motion for a thirty-day extension to file a response to the defendant's motion pursuant to Title 28, United States Code, Section 2255.

2. On July 7, 2020, the defendant filed a pro se motion pursuant to Title 28, United States Code, Section 2255. See Doc. No. 681. On July 8, 2020, the Court set a scheduling order, which permitted the government to file a motion to dismiss by July 28, 2020. See Doc. No. 684. On July 28, 2020, the government filed a motion to dismiss the motion. See Doc. No. 689.

3. The Court's order also scheduled the government to respond to the defendant-petitioner's motion by August 22, 2020. See Doc. No. 684.

4. Since the Court issued the scheduling order, the government has continued to review the defendant-petitioner's motion and relevant case law. Additionally, the government has requested information regarding the defendant's motion and is awaiting that information. Upon receipt of the additional information and continued review of the defendant's motion, in order to properly prepare and respond to the allegations in the defendant's filing, the government respectfully requests an additional thirty days to respond to the defendant's motion.

5. Based upon the foregoing, the government respectfully requests an extension until September 22, 2020, to file its response.

s/BRENDAN T. CULLINANE  
Assistant United States Attorney  
United States Attorney's Office  
Western District of New York  
138 Delaware Avenue  
Buffalo, New York 14202  
716-843-5875  
Brendan.Cullinane@usdoj.gov

Subscribed and sworn to before me  
this 17th day of August, 2020.

s/ Jessica M. Duquette  
Notary Public of New York  
Registration No.: 01DU6373793  
Qualified in Erie County  
My Commission Expires on 04/16/2022

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 17, 2020, the **MOTION FOR AN EXTENSION OF TIME TO FILE A RESPONSE TO THE DEFENDANT-PETITIONER'S MOTION PURSUANT TO TITLE 28, UNITED STATES CODE, SECTION 2255** was filed with the Clerk of the District Court using its CM-ECF system.

I further certify that as the defendant is representing himself pro se, the foregoing was provided to the defendant on August 18, 2020, via mail, at his place of incarceration stated below:

Jose Rivera  
Reg. No. 22416-055  
Allenwood Low Federal Correctional Institution  
P.O. Box 1000  
White Deer, PA 17887

**s/ JESSICA DUQUETTE**  
Legal Assistant